

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CORY NUTT, et al.,

Plaintiffs,

v.

LLANO POLICE DEPARTMENT, et al.,

Defendants.

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1:19-CV-471-RP

ORDER

Before the Court is the report and recommendation of United States Magistrate Judge Mark Lane concerning Kevin Ratliff's ("Ratliff") motion to dismiss, (Dkt. 38), and Defendants City of Llano, Llano Police Department, and Scott Edmonson's (together, "Llano") motion to dismiss, (Dkt. 40). (R.&R., Dkt. 55). In his report and recommendation, Judge Lane recommends that the Court (1) deny Ratliff's motion to dismiss and (2) grant in part and deny in part Llano's motion to dismiss. (*Id.* at 19). Specifically, Judge Lane recommends that the Court grant Llano's motion to dismiss as to Cory Nutt's ("Nutt") claims against Edmonson. (*Id.*). Nutt and Jenny Cambiano (together, "Plaintiffs") filed objections, (Dkt. 64); Ratliff filed objections, (Dkt. 62); and Llano filed objections, (Dkt. 63).

A party may serve and file specific, written objections to a magistrate judge's findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C. § 636(b)(1)(C). Because the parties timely objected to portions of the report and recommendation, the Court reviews those portions of the report and recommendation *de novo*. Having done so, the Court grants Plaintiffs' objection. Plaintiffs objected merely to correct an inadvertent error in the report and recommendation: Judge Lane wrote that "the video does show Nutt outside his camper prior to

the arrest” and, given the context of his analysis, it is clear that Judge Lane meant to write that the video did **not** show Nutt outside his camper prior to the arrest. (R&R, Dkt. 55, at 10). Therefore, the Court grants Plaintiffs’ objection to correct what appears to be a minor but potentially significant omission. This Order, in adopting the report and recommendation, revises the analysis on page 10 of the report and recommendation to read: “In his motion, Chief Ratliff claims Nutt was intoxicated outside his camper prior to his arrest, but the video does not show Nutt outside his camper prior to the arrest.” (*See id.*). The Court appreciates Plaintiffs’ careful reading of the report and recommendation and hopes that the parties are equally attentive and respectful about this Court’s inevitable typos. Additionally, having conducted a *de novo* review of Ratliff and Llano’s objections, the Court overrules their objections and adopts those portions of the report and recommendation as its own order. The portions that the parties did not object to were reviewed for clear error. Having done so, the Court finds no clear error and adopts those portions of the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the report and recommendation of United States Magistrate Judge Mark Lane, (R. & R., Dkt. 55), is **ADOPTED** with the correction to page 10 of the report and recommendation in accordance with this Order.

IT IS ORDERED that Ratliff’s motion to dismiss, (Dkt. 38), is **DENIED**.

IT IS FURTHER ORDERED that Llano’s motion to dismiss, (Dkt. 40), is **GRANTED IN PART** and **DENIED IN PART** in accordance with this Order adopting the report and recommendation.

The Court **DISMISSES** Plaintiffs' claims against Edmonson. The Court will enter final judgment as to those claims after all the claims in this case are resolved.

SIGNED on September 3, 2020.

A handwritten signature in blue ink, appearing to read "R. Pitman", is positioned above a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE